

# Contractor Compliance Activity

## 2009 Report to the Legislature

As required by RCW 18.27.342

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*“Protecting consumers and adding a  
competitive advantage to  
responsible contractors as a means of  
leveling the playing field”*

December 2009

## Introduction

The purpose of this report is to respond to the requirement in RCW 18.27.342 that the Department of Labor and Industries (L&I) report each year by December 1 to the Legislature on specific contractor information. The RCW reads:

*Beginning December 1, 1997, the department shall report by December 1st each year to the commerce and labor committees of the senate and house of representatives and the ways and means committee of the senate and the appropriations committee of the house of representatives, or successor committees, the following information for the previous three fiscal years:*

*(1) The number of contractors found to have committed an infraction for failure to register;*

*(2) The number of contractors identified in subsection (1) of this section who were assessed a monetary penalty and the amount of the penalties assessed;*

*(3) The amount of the penalties reported in subsection (2) of this section that was collected; and*

*(4) The amount of the penalties reported in subsection (2) of this section that was waived.*

## Brief Summary

L&I is committed to improving consumer protection and leveling the playing field for legitimate contractors by informing and educating consumers, providing timely and customer focused services such as Internet registration, and actively enforcing the law. The following is a summary of the information in this report.

**Table 1: Construction Contractor Failure to Register**

Construction Contractor Failure to Register	FY 07	FY 08	FY 09
Number found committing an infraction	1,431	1,538	1,708*
Monetary penalty assessed	\$1,674,500	\$1,892,950	\$2,430,250
Penalties collected	\$289,498	\$357,840	\$ 289,265
Penalties waived	\$86,500**	\$122,678**	\$109,500

\* The number of unregistered contractors found will decrease during fiscal year 2010 due to general fund budget cuts and decrease staffing.

\*\* From the effective date of 1997 legislation (July 27, 1997), the law no longer permits penalties to be waived entirely. This chart represents penalty reductions for contractors that come into compliance within ten days. For further clarification, see page 6.

## Background

Consumer protection issues related to construction contractors, such as failure to register and purchase appropriate bonding, continue to receive significant attention from the news media and the Legislature. The exploitation of consumers by unscrupulous and illegal construction contractors has made the news several times this past year. Along with exploiting consumers, illegal contractors operating without the normal business overhead costs (including contractor registration, bonding, and insurance) make it difficult for legal contractors to compete when bidding on and working jobs. Over the past few years,

significant changes to the law have been made in order to promote enhanced consumer protection and a level playing field for legitimate, legal contractors.

L&I is committed to making sure consumers are protected and leveling the playing field for legitimate contractors. To that end, L&I is utilizing several strategies.

- ☑ **SCS Fraud Team** – The Fraud/Audit/Infraction/Revenue (FAIR) team is comprised of five L&I compliance inspectors and 1 working supervisor, which increased from 3 inspectors, effective January 2009. These inspectors are canvassing the state for contractors and plumbers who are ignoring registration and licensing laws or underpaying industrial insurance debt thereby gaining an unfair competitive advantage. Last year, the FAIR team did all of the following:

	Goal	Actual
Number of infractions issued to unregistered contractors	145	200
Number of contractors referred to the collections program	141.5	195
Actual \$ collected from collection referrals	\$840,252	\$1,140,934
Number of contractors referred to the audit program	392	436
Actual \$ collected from audit referrals	\$691,212	\$744,157

- Out of the 195 contractors referred to the Collection's Program, there was \$3,069,298 in outstanding Industrial Insurance debt was identified.
- Out of the 436 contractors referred to the audit program there was 296 audits completed assessing \$3,602,783 in Industrial Insurance debt

- ☑ **Outreach to Homeowners & Contractors** – During the past year L&I has reached more than 26,000 Washington state homeowners and contractors to make sure that both:
  - Consumers are aware of their rights
  - And
  - Contractors know their responsibilities under the law.

In the last six years, the program has spoken directly to over 130,000 consumers! There has been a 600 percent increase of consumers checking the department's website before hiring a contractor.

We have reached these numbers by:

- Increasing the number of public and consumer awareness campaigns.
- Attending and participating in public forums and home shows.
  - 26 homes shows
  - And more than a dozen other consumer event.
- Working together with other consumer protection agencies and organizations.

- Cooperating with the media regarding stories about unregistered contractors.
- Using public media to get consumer protection messages to consumers.

The program ran a small media campaign, which kicked off in the spring before the building season. A copy of the radio commercial can be heard on our website at: [www.hiringacontractor.lni.wa.gov](http://www.hiringacontractor.lni.wa.gov).

- ☑ **Training Contractors** - L&I continues its public/private partnership with the building industry by presenting Contractor Training events around the state in conjunction with Employment Security and the Department of Revenue,; along with Associated General Contractors (AGC), Associated Builders and Contractors (ABC), Building Industry Association of Washington (BIAW), Northwest Independent Contractors Association (NICA) and the Better Business Bureau.

These trainings have been consistently well reviewed with approximately 99% of the attendees rating this program average or above average. We are offering over 25 different classes to contractors to assist them in running their business safer, more profitably and with the consumer in mind.

**Table 2: Outreach Activities**

Year	# of Contractor Training Events	Average Contractor Attendance per event	Total # of Contractors Trained
2004	3	84	258
2005	7, plus 2 mini trainings	134	Over 950
2006	7	158	Over 1,000
2007	8	157	Over 1,100
2008	8	165	Over 1,320
2009	10	130	Over 1,300

- ☑ **Technology** - We are upgrading and improving our technology systems so all necessary information for becoming or hiring a legitimate contractor is readily and easily accessible to our customers, some of these systems have been upgraded and others are in the process. For example, our customers can use an Internet-based system to:
  - File Prevailing Wage intents and affidavits;
  - Access contractor registration, industrial insurance, and violation information 24 hours a day;
  - Track a contractor's status with L&I;
  - Help General contractors avoid prime contractor liabilities;
  - Renew contractor registration quicker; and
  - Provide accurate data for businesses with infractions.
- ☑ **Compliance** – L&I actively enforces the Contractor Registration statute through:
  - Inspectors visiting approximately 25,000 jobsites annually, responding to Internet and telephone referrals.

- Taking necessary steps to protect consumers and eliminate the underground economy through increased and targeted compliance activities, including follow-up on various leads to ensure compliance with the law.

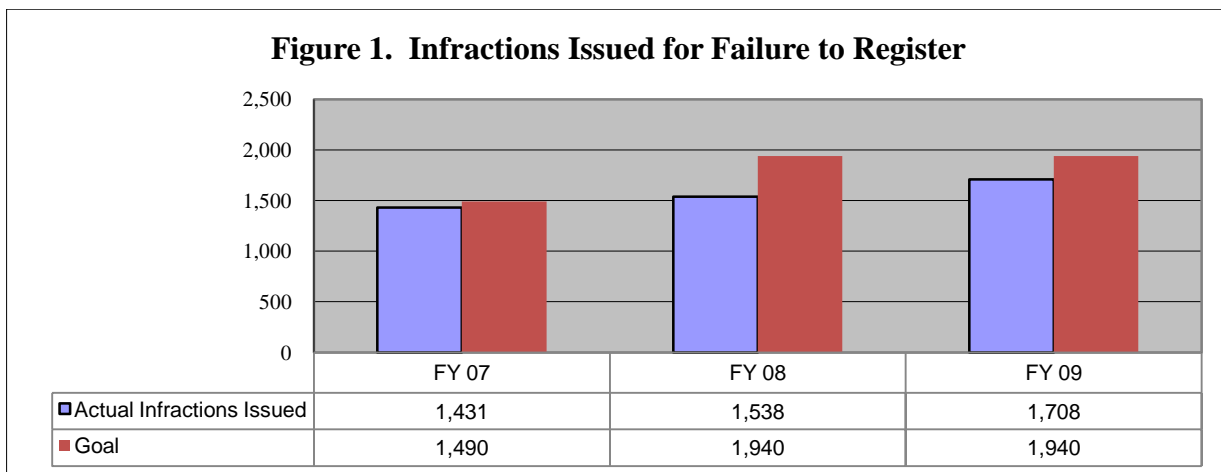
## ***Answers to Legislative Questions***

**Question No. 1 & 2 (partial): The number of contractors found to have committed an infraction & assessed a penalty for failure to register is the same number**

### **Question No. 1**

**The number of contractors found to have committed an infraction for failure to register:**

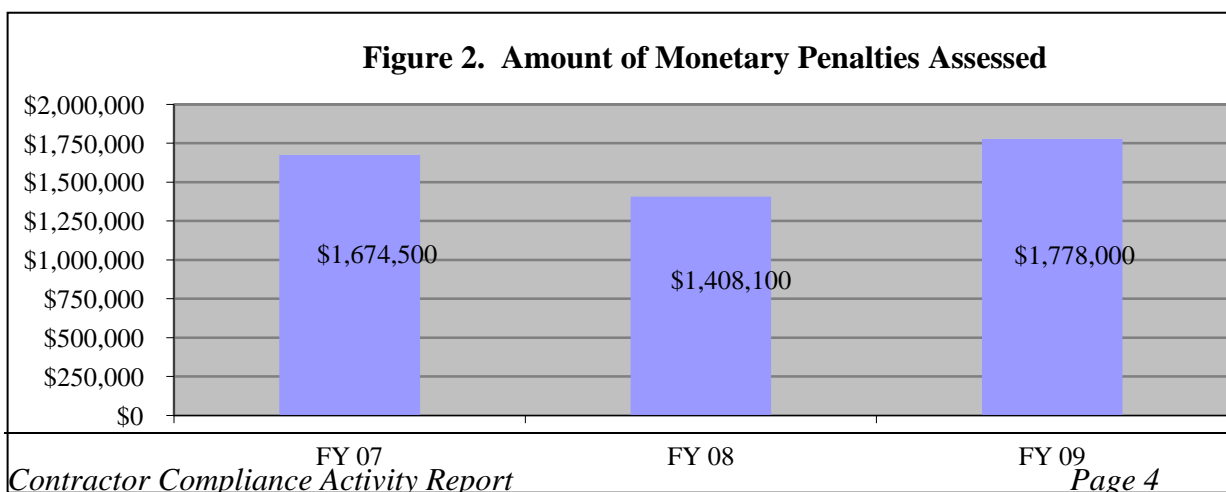
In FY 09, 1,708 contractors were issued a penalty for failure to register. The goal for FY 08 and FY 09 was 1,940 infractions per year.



### **Question No. 2**

**The number of contractors identified in Figure 1 who were assessed a monetary penalty and amount of the penalties assessed:**

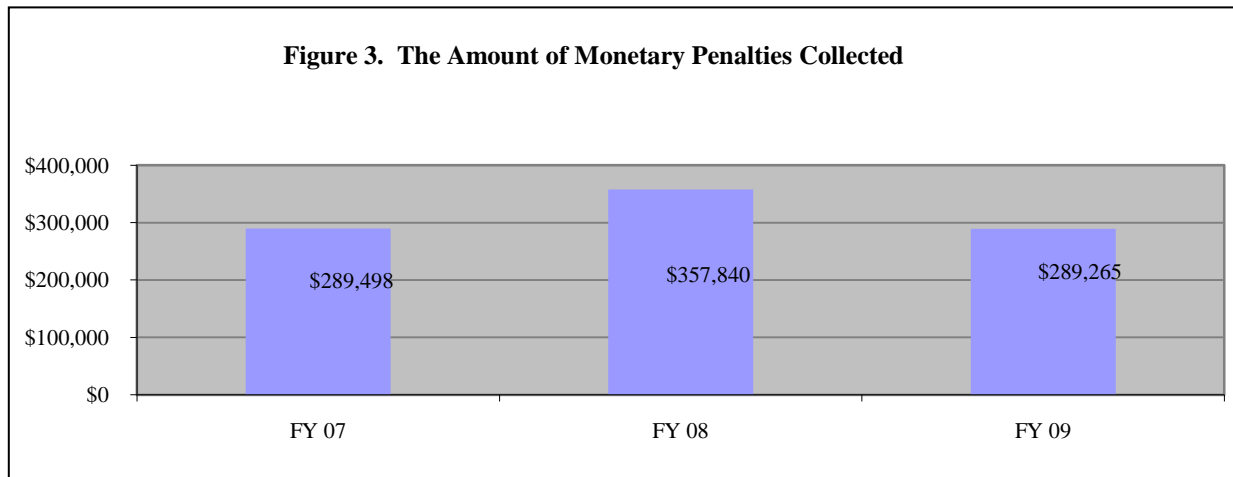
In FY 09, L&I assessed \$2,430,250 in penalties.



### Question No. 3

#### The amount of penalties that were collected:

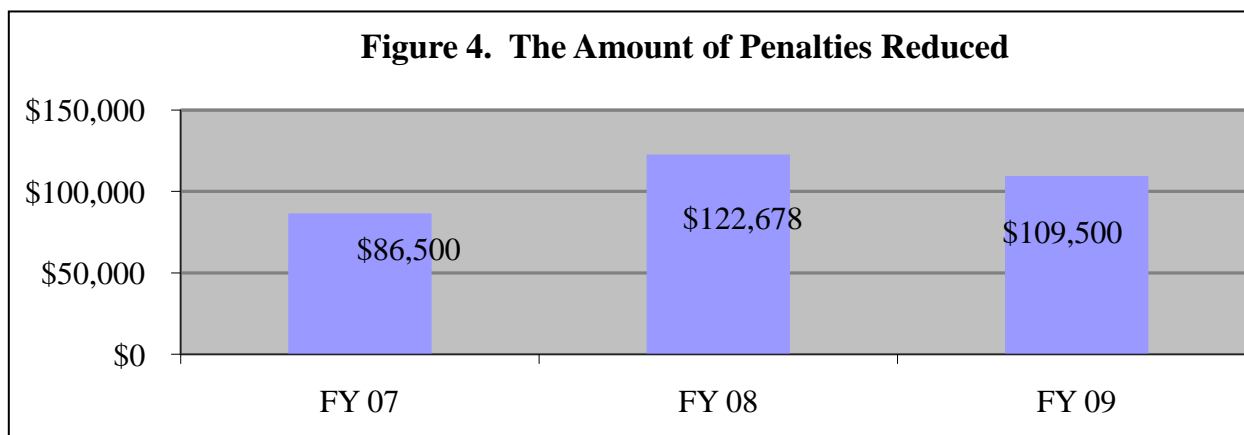
In FY 09, L&I collected \$289,265 in penalties. Historically, L&I referred all uncollected penalties to private collection agencies. Based on the statutory authority enacted in Chapter 159, Laws of 2001 (Substitute Senate Bill 5101), L&I is utilizing its collection authority to ensure payment of outstanding penalties. The programs sends all outstanding debt to internal collections and a private collections agency.



### Question No. 4

#### The amount of the penalties reported in Figure 2 that were waived:

Although waiving penalties no longer occurs, contractors that comply with the provisions of RCW 18.27.340(3) within 10 days may have their penalty reduced. \$109,500 in penalties have been reduced as a result of unregistered contractors coming into compliance and registering with the department within the 10 day time frame.



RCW 18.27.340(3) states: "A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. The director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person becomes registered within ten days of receiving a notice of infraction and the notice of infraction is for a first offense."

## ***Recommendations for Additional Statutory Change***

L&I has no current recommendations for statutory change. L&I continues to participate with the Joint Legislative Taskforce looking at the Underground Economy in the Construction Industry, this taskforce may propose future legislation.

## ***Reduction of Fiscal Year 2009 Operating Budget***

The Contractor Registration Program's operating budget was reduced by \$1,359,492 and 7.0 FTEs during the fiscal year 2009. The reduction of staff will impact the number of jobsites that are visited during the year and the number of contractor infractions written to unregistered contractors.